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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE CEMETERY AND FUNERAL BUREAU
10 **STATE OF CALIFORNIA**

11
12 In the Matter of the Accusation Against:

Case No. A1 2018 77

13 **EMMA CARTER-ALEXANDER**
P.O. Box 1007
14 Vallejo, CA 94590

A C C U S A T I O N

15 **Funeral Director License No. FDR 679,**
16 **Embalmer License No. EMB 8362**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Sandra Patterson (Complainant) brings this Accusation solely in her official capacity
21 as the Acting Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department of
22 Consumer Affairs.

23 2. On or about April 16, 1997, the Bureau issued Funeral Director License No. FDR 679
24 to Emma Carter-Alexander (Respondent). The Funeral Director License was in full force and
25 effect at all times relevant to the charges brought herein and will expire on April 30, 2019; unless
26 renewed.

27 3. On or about December 2, 1996, the Bureau issued Embalmer License No. EMB 8362
28 to Respondent. The Embalmer License was in full force and effect at all times relevant to the

1 charges brought herein and will expire on December 31, 2018, unless renewed.

2 **JURISDICTION**

3 4. This Accusation is brought before the Director of the Department of Consumer
4 Affairs (Director) for the Bureau, under the authority of the following laws. All section
5 references are to the Business and Professions Code (Code) unless otherwise indicated.

6 **STATUTES AND REGULATIONS**

7 5. Section 490 of the Code states:

8 (a) In addition to any other action that a board is permitted to take against a licensee, a
9 board may suspend or revoke a license on the ground that the licensee has been convicted of a
10 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
11 or profession for which the license was issued.

12 (b) Notwithstanding any other provision of law, a board may exercise any authority to
13 discipline a licensee for conviction of a crime that is independent of the authority granted under
14 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
15 of the business or profession for which the licensee's license was issued.

16 (c) A conviction within the meaning of this section means a plea or verdict of guilty or a
17 conviction following a plea of nolo contendere. Any action that a board is permitted to take
18 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
19 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
20 made suspending the imposition of sentence, irrespective of a subsequent order under Section
21 1203.4 of the Penal Code.

22 (d) The Legislature hereby finds and declares that the application of this section has been
23 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
24 554, and that the holding in that case has placed a significant number of statutes and regulations
25 in question, resulting in potential harm to the consumers of California from licensees who have
26 been convicted of crimes. Therefore, the Legislature finds and declares that this section
27 establishes an independent basis for a board to impose discipline upon a licensee, and that the
28 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change

1 to, but rather are declaratory of, existing law.

2 6. Section 7691 of the Code states:

3 Conviction of a crime substantially related to the qualifications, functions and duties of the
4 license holder in question constitutes a ground for disciplinary action. The record of conviction,
5 or a certified copy thereof, shall be conclusive evidence of such conviction.

6 7. Section 7709 of the Code states:

7 A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to
8 be a conviction within the meaning of this article. The bureau may order the license suspended or
9 revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment
10 of conviction has been affirmed on appeal or when an order granting probation is made
11 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of
12 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter
13 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information
14 or indictment.

15 8. California Code of Regulations, title 16, section 1252, states:

16 For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
17 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
18 considered to be substantially related to the qualifications, functions or duties of a licensed
19 funeral establishment, licensed funeral director, or licensed embalmer if to a substantial degree it
20 evidences present or potential unfitness of a licensed funeral establishment, licensed funeral
21 director, or licensed embalmer to perform the functions authorized by his license in a manner
22 consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be
23 limited to those involving the following:

24 (a) Conviction of a crime involving fiscal dishonesty.

25 (b) Any violation of the provisions of Chapter 12, Division 3 of the Business and
26 Professions Code.

27 COSTS

28 9. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the

1 administrative law judge to direct a licentiate found to have committed a violation or violations of
2 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
3 enforcement of the case.

4 **CAUSE FOR DISCIPLINE**

5 (Criminal Conviction)

6 10. Respondent is subject to disciplinary action under sections 490, 7691 and 7709 of the
7 Code, in that Respondent has been convicted of a crime substantially related to the qualifications,
8 functions and duties of a licensee. The circumstances are as follows:

9 11. On or about December 12, 2017, in United States District Court, Eastern District of
10 California, case number 2:17CR00146-1, Respondent was convicted of having violated title 18,
11 United States Code, section 641 (conversion of public money), a felony. The conviction was
12 based on Respondent having fraudulently collected social security checks over a period of 23
13 years, amounting to \$298,168.20.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Director of Consumer Affairs issue a decision:

- 17 1. Revoking Funeral Director License No. FDR 679, issued to Emma Carter-Alexander;
18 2. Revoking Embalmer License No. EMB 8362, issued to Emma Carter-Alexander;
19 3. Ordering Emma Carter-Alexander to pay the Cemetery and Funeral Bureau the
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21 Professions Code section 125.3; and,
22 4. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 12-27-18

Sandra Patterson
SANDRA PATTERSON
Acting Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant